

REMARKS

This Amendment is responsive to the non-final Office Action¹ of March 18, 2008. Claims 1, 3, 5-10, 13-18, and 22-32 were presented for examination. All claims were rejected as detailed below. Claims 2, 4, 11, 12, 19-21 and 33 were previously canceled without prejudice or disclaimer. New claim 34 is added. Support for the new claim can be found in the application as filed. Claims 1, 10, 18, 28 and 34 are independent claims. Claims 1, 10, 18 and 28 are amended herein. Support for the amendments can be found in the application, as filed. See, for example, paragraphs [0030] - [0032]. See, for example, Figs. 6 and 8 and discussion associated therewith. Claims 1, 3, 5-10, 13-18, 22-32 and 34 are pending.

The Rejections:

Claims 1, 3, 5, 9, 28 and 30-32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Farris et al., U.S. Patent No. 5,751,789 (referred to hereinafter as “Farris”) in view of newly-cited Knight, U.S. Patent Application Publication No. 2007/0060202 (referred to hereinafter as “Knight”).

¹ The Office Action may contain a number of statements characterizing the cited references and/or the claims which Applicant may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicant does not automatically subscribe to, or acquiesce in, any such statement. Further, silence with regard to rejection of a dependent claim, when such claim depends, directly or indirectly, from an independent claim which Applicant deems allowable for reasons provided herein, is not acquiescence to such rejection of that dependent claim, but is recognition by Applicant that such previously lodged rejection is moot based on remarks and/or amendments presented herein relative to that independent claim.

Claim 6 is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in views of Knight and well known Prior Art (MPEP 2144.05).

Claim 7 is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in views of Knight and Ehreth U.S. Patent No. 6,246,750 B1 (referred to hereinafter as “Ehreth”).

Claim 8 is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in views of Knight and McKenna et al. U.S. Patent No. 6,829,486 B2 (referred to hereinafter as “McKenna”).

Claims 10, 13, 15, 17, 18 and 22-26 are rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina et al., U.S. 2004/0214569 A1 (referred to hereinafter as “Cardina”) in view of Knight² and Sendrowicz U.S. 2003/0134598 A1 (referred to hereinafter as “Sendrowicz”).

Claims 14 and 16 are rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina in views of Knight, Sendrowicz and Sawada, U.S. 2005/0148315 A1 (referred to hereinafter as “Sawada”).

Claim 27 is rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina in views of Knight, Sendrowicz and McKenna.

Claim 29 is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in views of Knight and Patron et al., (U.S. 2005/0063333 A1) (referred to hereinafter as “Patron”).

² The Office Action (pg 9) erroneously inserted OCHI. It is clear from the detailed rejection (pgs 10-15) that KNIGHT was really intended. OCHI was replaced by KNIGHT throughout the Office Action.

Claims 13 and 22 are rejected under 35 U.S.C. §103(a) as being un-patentable

over Cardina in view of Knight and Sendrowicz, and further in view of well known prior art (MPEP 2144.05).

Applicant respectfully traverses these rejections because the cited references taken individually or in any reasonable combination do not disclose or suggest all claim limitations of each pending claim for the following reasons.

Independent Claim 1:

Consider, first, independent claim 1 which is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in view of Knight. Claim 1 recites, *inter alia*:

“wherein the immobile wireless transceiver is configured to relay data from other immobile wireless transceivers that have lost connectivity to the wireline network, said other immobile wireless transceivers being connected to said immobile wireless transceiver directly or through one or more of said other immobile wireless transceivers when said data is being relayed, said other immobile wireless transceivers having been wireline-connected to the wireline network during normal operation.”

(emphasis added) On page 3 of the Office Action, the Examiner states that Farris “does not particularly disclose wherein the wireless transceiver is configured to relay data from other wireless transceivers that have lost connectivity on the wireline network with the service provider, said other wireless transceiver having been wireline-connected to the wireline network during normal operation.” Applicant agrees that this claimed subject matter is not disclosed in Farris.

Thereafter, the Office Action brings in Knight to cure the admitted deficiency in Farris. The Office Action reads antenna units 109 and 116 in Knight on Applicant’s

recited “wireless transceivers.” It also reads the MTSO (Mobile Telephone Switching Office) switching center in Knight on Applicant’s recited “service provider.” It also reads the cut T1 cable 127 associated with Knight’s cell site 119 as equivalent to Applicant’s recited “connectivity is lost on the wireline network.” (See: Office Action pg 3)

In view of the Knight disclosure, Applicant has amended its claim 1. First of all, claim 1 now recites that its transceivers are immobile. As clearly shown in the Figures and as described in the specification, Applicant’s transceivers are located in or on subscribers’ houses and, therefore, are located at fixed and immobile locations. By contrast, Knight’s “remote, self-contained communications antenna unit” 116 or 109 is not only remote - it is mobile - in fact, it is mounted in a trailer: “The trailer that transports the remote, self contained communications antenna unit 116 is small enough to be placed near the disconnected cell site 119 and the extendable mast 114 supporting microwave antenna 112 and radio frequency antenna 115 is raised.” (emphasis added; Knight, paragraph [0027]) Therefore, Knight teaches the opposite of immobility and does not disclose or suggest: “wherein the immobile wireless transceiver is configured to relay data from other immobile wireless transceivers that have lost connectivity to the wireline network” as recited in claim 1.

In addition, even if antennae units 109 and 116 were not disclosed as mobile, the Office Action’s reliance upon them to read on Applicant’s recited transceivers is inherently flawed anyway, because the transceivers in these antenna units do not meet the requirement of “having been wireline-connected to the wireline network during normal operation” as recited in claim 1. Indeed, these are mobile, backup antenna units that are

not wireline-connected to the wireline network during normal operation. During normal operation antennae units 109 and 116 are not even involved. They are only brought into play if and when there is a failure in the wireline operation in Knight, not during normal wireline operation, whether they are driven to location on trucks or otherwise.

Furthermore, even if the Office Action were to shift focus and look, instead, to the transceivers in cell sites 101 and 119, which may normally be connected to the MTSO wireline, in a further attempt to read Knight on Applicant's recited transceivers, this hypothetical interpretation still falls short. In this instance there is no *direct* wireless connection between cell sites 101 and 119 because the connection must go through the intermediary 109/116 antennae, as shown in Knight, which provide no more than an indirect connection between cell sites 101 and 119. Also, there is no teaching in Knight of a wireless connection between cell sites 101 and 119 that goes through one or more wireless transceivers that have each lost their wireline connections to the network service provider. Applicant's direct wireless connection between transceivers is shown in Fig. 6 and its connection through one or more of the other wireless transceivers that have lost their normally-connected wireline connections is shown in Fig. 8.

Therefore, Knight does not teach or suggest: "wherein the immobile wireless transceiver is configured to relay data from other immobile wireless transceivers that have lost connectivity to the wireline network, said other immobile wireless transceivers being connected to said immobile wireless transceiver directly or through one or more of said other immobile wireless transceivers when said data is being relayed, said other immobile wireless transceivers having been wireline-connected to the wireline network during normal operation" as recited in claim 1.

Since Farris, admittedly, does not teach or suggest this limitation and since

Knight, as shown above, does not teach or suggest this limitation, any reasonable combination of Farris and Knight also does not teach or suggest this limitation.

Accordingly, the 35 U.S.C § 103(a) rejection of claim1 should be withdrawn and the claim allowed.

All claims that are dependent from claim 1, claims 3 and 5-9, are likewise allowable, at least for reasons based on their dependencies from an allowable base claim. Claim 6 was further rejected on “well known prior art.” Claim 7 was further rejected on Ehreth. Claim 8 was further rejected on McKenna. Prior art, Ehreth and McKenna do not cure the deficiencies of Farris and Knight.

Independent claim 10:

Consider, next, independent claim 10 which is rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina in view of Knight and Sendrowicz. Claim 10 recites, *inter alia*: “when the wireline connection fails, automatically establishing a substitute wireline connection to the network service provider over an *immobile* wireless connection relayed from the network subscriber *directly to one who has, or through more than one other network subscriber who each has, separate wireline-connectivity to the network service provider as normal connectivity.*” (emphasis added)

The Office Action states: “But, Cardina does not particularly disclose wherein the connection to the network service provider is established over a wireless connection relayed from the network subscriber for which the wireline-connectivity to the network

service provider over the wireline connection was established as normal connectivity via one or more other network subscribers.” (Office Action, pg 10) Applicant agrees that Cardina does not disclose this subject matter. The Office Action then applies Knight, as discussed above with respect to claim 1. However, Knight fails to disclose or suggest an *immobile* wireless connection relayed from the network subscriber *directly to one who has, or through more than one other network subscriber who each has, separate wireline-connectivity to the network service provider as normal connectivity* for reasons given above with respect to claim 1.

Since Cardina, admittedly, does not teach or suggest this limitation and since Knight, as shown above, does not teach or suggest this limitation, any reasonable combination of Cardina and Knight also does not teach or suggest this limitation. Sendrowicz was cited to show an ad-hoc communication network (Office Action pg 11), was not cited to show this limitation, and does not cure these deficiencies of Cardina and Knight. Accordingly, the 35 U.S.C § 103(a) rejection of claim 10 should be withdrawn and the claim allowed.

All claims that are dependent from claim 10, claims 13-17, are likewise allowable, at least for reasons based on their dependencies from an allowable base claim. Claims 14 and 16 were further rejected on Sawada which was cited merely to teach the broadcasting of a message requesting a relay to the network service provider by one or more other network subscribers. (Office Action, pgs 15-16) As such, it does not cure the deficiencies of Cardina, Knight and Sendrowicz, as applied to claim 10. Therefore, claims 13-17, dependent from claim 10 are allowable.

Independent claim 18:

Independent claim 18 is rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina in view of Knight and Sendrowicz. Claim 18 recites, *interalia*: “providing backup network connectivity to said one node via a wireless network implemented over the remainder of the plurality of network *nodes permanently located* at residences of subscribers of the network service provider, said backup network connectivity provided by wirelessly relaying data directly from said one node to another node in the plurality of network nodes which has an active wireline connection to the network service provider or which is wirelessly connected to yet another node in the plurality of nodes that has an active wireline connection to the network service provider.”

The Office Action states: “But, Cardina does not particularly disclose wherein the connection to the network service provider is established over a wireless connection relayed from the network subscriber for which the wireline-connectivity to the network service provider over the wireline connection was established as normal connectivity via one or more other network subscribers.” (Office Action, pg 10) Applicant agrees that Cardina does not disclose this subject matter. The Office Action then applies Knight, as discussed above with respect to claim 10. However, Knight fails to disclose or suggest *nodes permanently located* at residences of subscribers of the network service provider, said backup network connectivity provided by wirelessly relaying data directly from said one node to another node in the plurality of network nodes which has an active wireline connection to the network service provider or which is wirelessly connected to yet another node in the plurality of nodes that has an active wireline connection to the network service provider.

Since Cardina, admittedly, does not teach or suggest this limitation and since

Knight, as shown above, does not teach or suggest this limitation, any reasonable combination of Cardina and Knight also does not teach or suggest this limitation. Sendrowicz was cited to show an ad-hoc communication network (Office Action pg 11), was not cited to show this limitation, and does not cure these deficiencies of Cardina and Knight. Accordingly, the 35 U.S.C § 103(a) rejection of claim 18 should be withdrawn and the claim allowed.

All claims that are dependent from claim 18, claims 22-27, are likewise allowable, at least for reasons based on their dependencies from an allowable base claim. Claim 27 was further rejected on McKenna which was cited merely to show a variety of physical media for interconnections such as twisted pair, Ethernet, coaxial cable etc., which does not cure the above-noted deficiencies of the Cardina/Knight/Sendrowicz combination. Therefore, claims 22-27, dependent from claim 18 are likewise allowable.

Independent claim 28:

Consider, next, independent claim 28 which is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in view of Knight. Claim 28 recites, *inter alia*:

“wherein the immobile wireless transceiver is configured to relay data from other wireless transceivers in the other NIUs when connectivity on their respective wireline connections fails, the other wireless transceivers being connected to said immobile wireless transceiver directly or through one or more of the other wireless transceivers when the data is being relayed, and the other wireless transceivers having been wireline-connected to the wireline network during normal operation.”

(emphasis added) On page 3 of the Office Action, the Examiner states that Farris “does not particularly disclose wherein the wireless transceiver is configured to relay data from other wireless transceivers that have lost connectivity on the wireline network with the service provider, said other wireless transceiver having been wireline-connected to the wireline network during normal operation.” Applicant agrees that this claimed subject matter is not disclosed in Farris.

Thereafter, the Office Action brings in Knight to cure the admitted deficiency in Farris. The Office Action reads antenna units 109 and 116 in Knight on Applicant’s recited “wireless transceivers.” It also reads the MTSO (Mobile Telephone Switching Office) switching center in Knight on Applicant’s recited “service provider.” It also reads the cut T1 cable 127 associated with Knight’s cell site 119 as equivalent to Applicant’s recited “connectivity is lost on the wireline network.” (See: Office Action pg 3)

In view of the Knight disclosure, Applicant has amended its claim 28 to recite that its transceivers are immobile. As clearly shown in the Figures and as described in the specification, Applicant’s transceivers are located in or on subscribers’ houses and, therefore, are located at fixed and immobile locations. By contrast, Knight’s “remote, self-contained communications antenna unit” 116 or 109 is mobile - in fact they are mounted in trailers: “The trailer that transports the remote, self contained communications antenna unit 116 is small enough to be placed near the disconnected cell site 119 and the extendable mast 114 supporting microwave antenna 112 and radio frequency antenna 115 is raised.” (emphasis added; Knight, paragraph [0027]) Therefore, Knight teaches away from immobility and does not disclose or suggest:

“wherein the immobile wireless transceiver is configured to relay data from other

wireless transceivers in the other NIUs when connectivity on their respective wireline connections fails” as recited in claim 28.

In addition, even if antennae units 109 and 116 were not disclosed as mobile, the Office Action’s reliance upon them to read on Applicant’s recited transceivers is inherently flawed anyway because the transceivers in these antenna units do not meet the requirement of “having been wireline-connected to the wireline network during normal operation” as recited in claim 28. Indeed, these are mobile, backup antenna units that are not wireline-connected to the wireline network during normal operation. During normal operation antennae units 109 and 116 are not even involved. They are only brought into play if and when there is a failure in the wireline operation in Knight, not during normal wireline operation, whether they are driven to location on trucks or otherwise.

Furthermore, even if the Office Action were to shift focus and look, instead, to the transceivers in cell sites 101 and 119, which may normally be connected to the MTSO wireline, in a further attempt to read Knight on Applicant’s recited transceivers, this hypothetical interpretation still falls short. In this instance there is no *direct* wireless connection between cell sites 101 and 119 because the connection must go through the intermediary 109/116 antennae, as shown in Knight, which provides no more than an indirect connection between cell sites 101 and 119. Also, there is no teaching in Knight of a wireless connection between cell sites 101 and 119 that goes through one or more wireless transceivers that have each lost their wireline connections to the network service provider. Applicant’s direct wireless connection between transceivers is shown in Fig. 6

and its connection through one or more of the other wireless transceivers that have lost their normally-connected wireline connections is shown in Fig. 8.

Therefore, Knight does not teach or suggest: “wherein the immobile wireless transceiver is configured to relay data from other wireless transceivers in the other NIUs when connectivity on their respective wireline connections fails, the other wireless transceivers being connected to said immobile wireless transceiver directly or through one or more of the other wireless transceivers when the data is being relayed” as recited in claim 28.

Since Farris, admittedly, does not teach or suggest this limitation and since Knight, as shown above, does not teach or suggest this limitation, any reasonable combination of Farris and Knight also does not teach or suggest this limitation. Accordingly, the 35 U.S.C § 103(a) rejection of claim 28 should be withdrawn and the claim allowed.

All claims that are dependent from claim 28 (claims 29-32) are likewise allowable, at least for reasons based on their dependencies from an allowable base claim. Claim 29 was further rejected on Patron which allegedly teaches ad hoc networks usually consist of several computing devices each equipped with wireless transceivers. (Office Action pg 17) Patron does not cure the deficiencies of Farris and Knight. Thus claims 29-32, dependent from claim 28, are likewise allowable.

New Claim 34:

New claim 34 recites, *inter alia*: “providing, when said first wireline

communication fails, substitute wireline communication for said first network subscriber by way of said second wireline communication by wirelessly relaying data directly between *two immobile nodes*, one of said nodes located in or on premises of said first network subscriber and the other of said nodes located in or on premises of said second network subscriber, said other of said nodes relaying said data with said network service provider over *a wireline otherwise normally carrying only said second wireline communication.*” (emphasis added) Claim 34 is allowable for reasons given above with respect to allowability of claims 1, 10, 18 and 28.

Applicant does not acquiesce in the combinability of these references. Without going into detail at this time, Applicant notes, for example, that the Office Action’s reasons for combining Farris and Knight (Office Action, pg 4) and for combining Cardina and Knight (Office Action, pgs 10-11) are merely conclusory. The Office Action merely presents certain advantages of Applicant’s claimed subject matter, which can be appreciated after a reading of Applicant’s claims, and concludes that it would be obvious to combine the references to achieve those advantages. This approach to combining references relies on impermissible hindsight. Applicant reserves its rights to present full arguments rebutting these combinations of the references, as well as other combinations

of references, in subsequent responses, if need be. Applicant views its instant amendment and remarks as sufficient to overcome the rejections of all pending claims.³

³ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.

CONCLUSION

Reconsideration and allowance of the pending claims are respectfully requested based on the above amendments and remarks. It is respectfully submitted that all claims and, therefore, this application are in condition for allowance and prompt passage to issue is respectfully requested.

To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. Please charge any other fees due, or credit any overpayment made to that account.

Respectfully submitted,

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